

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TYRONE MASSEY,

Plaintiff,

-against-

CAPTAIN SEWELL, #1716; CAPTAIN
LEE (FEMALE),

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/06/2019

18-CV-8432 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS Plaintiff, acting *pro se*, commenced this action on September 14, 2018, alleging denial of timely medical care by Defendants while he was incarcerated in the Manhattan Detention Complex (MDC), Dkt. 2;

WHEREAS Plaintiff failed to observe numerous deadlines and did not appear at two conferences scheduled by Magistrate Judge Barbara Moses;

WHEREAS on May 30, 2019, Defendants moved to dismiss for failure to prosecute, Dkt. 28;

WHEREAS on October 2, 2019, due to Plaintiff's failure to communicate about his case for nearly eight months, Judge Moses issued a Report and Recommendation recommending that the Court dismiss the action without prejudice for failure to prosecute, Dkt. 30;

WHEREAS on October 21, 2019, the Court received a letter from Plaintiff, explaining that he was once again incarcerated at the MDC and that he, due to serious mental illness and drug use, neglected to follow the developments in this case, Dkt. 31;

WHEREAS Plaintiff indicated that he began receiving treatment for his condition and that he intended to continue litigating this case;

WHEREAS the Court declined to adopt, at that time, the Report and Recommendation recommending dismissal, to allow Plaintiff another chance to comply with the Court's orders and litigate this case on the merits, Dkt. 32;

WHEREAS the Court ordered Plaintiff to file an opposition to Defendants' pending motion to dismiss no later than November 27, 2019, to the extent that he intended to proceed with this litigation, Dkt. 32; and

WHEREAS the Court has received no further communication from Plaintiff as of the date of this Order;


IT IS HEREBY ORDERED that this case is DISMISSED without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, for the reasons set forth in Magistrate Judge Moses' Report and Recommendation and for Plaintiff's subsequent failure to comply with this Court's Order.

The Clerk of Court is respectfully requested to terminate all pending motions and deadlines and close the case. The Clerk is further requested to mail a copy of this Order to Plaintiff and note mailing on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

Dated: December 6, 2019
New York, New York



VALERIE CAPRONI
United States District Judge